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17 OCT 2006

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In re Application of BOUILLOUX-LAFONT et al :
U.S. Application No.: 10/533,848 :
PCT Application No.: PCT/EP02/50787 :
Int. Filing Date: 04 November 2003 : DECISION
Priority Date Claimed: 05 November 2002 :
Attorney Docket No.: 11345/063001 :
For: SELECTING ADVERTISEMENT ON A SET :
TOP BOX IN A TELEVISION NETWORK :

This is in response to applicant's "Renewed Petition Under 37 CFR § 1.47(a)" filed 16 June 2006.

BACKGROUND

On 04 November 2003, applicant filed international application PCT/EP02/50787, which claimed priority of an earlier European Patent Office application filed 05 November 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 21 May 2004. The thirty-month period for paying the basic national fee in the United States expired on 05 May 2005.

On 04 May 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 28 September 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 25 January 2006, applicant filed a petition under 37 CFR 1.47(a).

On 17 March 2006, this Office mailed a decision dismissing the 25 January 2006 petition.

On 16 June 2006, applicant filed the present renewed petition under 37 CFR 1.47(a).

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by: (1) an oath or declaration by each applicant on his or her own behalf and on behalf of the nonsigning joint inventors, (2) factual proof that the missing joint inventors refuse to join in the application or cannot be reached after diligent effort, (3) the fee set forth in §1.17(i), and (4) the last known addresses of the nonsigning joint inventors.

Petitioner has previously satisfied items (1), (3), and (4) above.

With regard to item (2) above, MPEP 409.03(d) states in relevant part,

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, an affidavit or declaration of facts should be submitted which fully describes the exact facts which are relied on to establish that a diligent effort was made. . . . The affidavit or declaration of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be found or reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions.

The petition states that joint inventors Helene Bouilloux-Lafont, Franck Bachet, and Axel Taldir cannot be reached. The petition sufficiently demonstrates that a diligent attempt was made to find the inventors. Two attempts were made to contact the inventors by postal mail (see affidavit of Isabelle Thibaudeau). Furthermore, petitioner unsuccessfully attempted to reach the inventors through their employer (see affidavit of Frederique Dersoir). Thus, it can be concluded with reasonable certainty that inventors Bouilloux-Lafont, Bachet, and Taldir cannot be reached.

CONCLUSION

For the reasons above, the renewed petition under 37 CFR 1.47(a) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 04 November 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 25 January 2006.

As set forth in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventors at the last known addresses of record and will be published in the *Official Gazette*.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

Bryan Lin

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Axel Taldir
31 rue Chateaubriand
91600 Savigny Sur Orge
France

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Dear Axel Taldir:

You are named as a joint inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Bryan Lin

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Franck Bachet
60 rue du Hamel
78550 Houdan
France

In re Application of BOUILLOUX-LAFONT et al
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Priority Date Claimed: 05 November 2002
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Dear Franck Bachet:

You are named as a joint inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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Helene Bouilloux-Lafont
22 Rue du General Lederer
92130 Issy les Moulineaux
France

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Dear Helene Bouilloux-Lafont:

You are named as a joint inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost set forth in 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you choose to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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